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Inspector General, Department of Defense
400 Army Navy Drive (Room 801)
Arlington, VA 22202-2884

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Audit



Report

OFFICE OF THE INSPECTOR GENERAL

PURCHASING COMMERCIAL PRODUCTS

Report No. 97-145

May 23, 1997

Department of Defense

AQI 00-01- 0148

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Acronyms

CBD	Commerce Business Daily
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act
GAO	General Accounting Office
NAVSEA	Naval Sea Systems Command



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884



May 23, 1997

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE FOR ACQUISITION
AND TECHNOLOGY
ASSISTANT SECRETARY OF THE NAVY (FINANCIAL
MANAGEMENT AND COMPTROLLER)
ASSISTANT SECRETARY OF THE AIR FORCE
(FINANCIAL MANAGEMENT AND COMPTROLLER)
DIRECTOR, DEFENSE LOGISTICS AGENCY
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Audit Report on Purchasing Commercial Products (Report No. 97-145)

We are providing this audit report for your information and use. Because this report contains no findings or recommendations, comments were not required, and no comments were received. Therefore, we are publishing this report in final form.

We appreciate the courtesies extended to the audit staff. Questions on the audit should be directed to Mr. Terry L. McKinney, Audit Program Director, at (703) 604-9288 (DSN 664-9288) or Mr. Bruce A. Burton, Audit Project Manager, at (703) 604-9282 (DSN 664-9282). See Appendix B for the report distribution. The audit team members are listed inside the back cover.

David K. Steensma
Deputy Assistant Inspector General
for Auditing

Office of the Inspector General, DoD

Report No. 97-145

(Project No. 7CF-0016)

May 23, 1997

Purchasing Commercial Products

Executive Summary

Introduction. The Federal Acquisition Streamlining Act of 1994 established special requirements for Government agencies to follow in acquisition of commercial items. The goal of the Federal Acquisition Streamlining Act is to facilitate the procurement of goods and services that the Government needs and ensure that the Government obtains the best value product or service.

Audit Objectives. The audit objective was to determine whether Department of Defense buying commands were purchasing commercial products to the maximum extent practicable. Specifically, we evaluated whether contracting officers were conducting market research to identify commercial products that would meet mission requirements. We also evaluated the procurement offices' management control programs as they apply to the overall audit objective.

Audit Results. The DoD buying commands were purchasing commercial products when practicable. The Army, Navy, Air Force, and Defense Logistics Agency buying commands conducted market research to identify commercially available products to satisfy their needs. The management controls were adequate as they applied to market research techniques used to identify commercially available products.

Management Comments. Because this report contains no findings or recommendations, comments were not required, and no comments were received. Therefore, we are publishing this report in final form.

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Part I - Audit Results

Audit Results

Audit Background

In 1976, DoD implemented the Acquisition of Commercial Products Program. The program was established to emphasize the use of commercial products, eliminate unnecessary specifications, tailor specifications to reflect commercial practices, and minimize the administrative burden of Government acquisition procedures.

The Competition in Contracting Act of 1984 required market research and procurement planning to promote the use of competitive procedures, and emphasized the use of market research to identify commercial products. The National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) reemphasized the use of market research for DoD to save money and reduce acquisition cycle time by buying products that were commercially available or that had already been developed.

The Federal Acquisition Streamlining Act (FASA), which was enacted on October 13, 1994, added requirements for conducting market research and set forth provisions to update the Federal Acquisition Regulation (FAR). The main goal of FASA is to facilitate the procurement of goods and services the Government needs and ensure that the Government obtains the best value product or service. FASA provisions were made mandatory for all solicitations over \$100,000 issued on or after December 1, 1995. Some of the primary goals of FASA are to:

- o Communicate with providers in the commercial sector as early as possible in the acquisition cycle.
- o Foster cooperative relationships between the Government and its contractors.
- o Maximize use of commercial products and services to meet Government requirements.
- o Select contractors who have a track record of successful past performance, or who demonstrate a current superior ability to perform.
- o Promote competition between contractors.

Audit Objectives

The audit objective was to determine whether Department of Defense buying commands were purchasing commercial products to the maximum extent practicable. Specifically, we evaluated whether contracting officers were conducting market research to identify commercial products that would meet

Audit Results

mission requirements. We also evaluated management control programs established by the procurement offices as the programs apply to the overall audit objective. See Appendix A for a discussion of the scope and methodology of the audit and our review of the management control program.

Purchasing of Commercial Items

DoD buying commands were performing adequate market research. Our review of 82 contracts showed that market research was performed on solicitations issued both prior to and after FASA. Although market research techniques varied based on the nature and size of the procurement, the extent of market research was appropriate. FASA Note 26¹ was not always included in the Commerce Business Daily (CBD) when required, but corrective action is being implemented. FASA implementation was in the early phases and we believe it may be advisable to follow-up in this area after additional implementation efforts and corrective actions are completed.

FASA Implementation. The FAR implements FASA requirements to conduct market research to identify commercially available products. FAR Part 10 describes market research as the process used to collect, maintain, analyze and present data for the purpose of maximizing the use of commercial technology to meet an organization's needs for supplies and services. FAR Part 10 also requires market research be performed before developing new specifications for a procurement and before soliciting bids or proposals for a contract valued at more than \$100,000. The extent of market research is dependent on the complexity, urgency, estimated dollar value, information available, and past experience. FAR Part 10 lists various techniques for conducting market research, including:

- o contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements,
- o publishing formal requests for information in appropriate technical journals or business publications, and
- o involving potential providers in interchange meetings or holding presolicitation conferences early in the acquisition process.

FAR Part 10 states that the results of market research should be documented in a manner appropriate to the size and complexity of the acquisition.

Types of Market Research Performed. Market research was performed on 59 of the 82 contracts reviewed. For the contracts in which market research was not performed, adequate justification was contained in the contract files for not conducting market research. The extent of market research performed varied, depending on the size and complexity of the procurement. For smaller and less complex acquisitions, market research was generally accomplished through announcements in the CBD. For larger, more complex acquisitions myriad

¹Note 26 provides that, based on market research results, the Government does not plan to solicit the described supplies using the FAR's commercial item procedures. As a contracting officer's final check on the ability of the commercial marketplace to respond, the note asks interested parties to identify, within 15 days, their capability to fulfill the Government's requirement with a commercial item.

market research techniques were used. For example, the Naval Sea Systems Command (NAVSEA) employed a number of market research techniques to identify a nondevelopmental² item for a thermal imaging sensor system. The NAVSEA program office conducted an initial market survey by issuing a CBD announcement on January 31, 1992. The program office received 38 responses from industry. After conducting industry briefings and testing selected systems, the program office identified 15 vendors that could meet their requirements. On August 1, 1994, NAVSEA published its intention in the CBD to purchase a thermal imaging sensor (nondevelopmental item). Six proposals were received in response to this announcement and a contract was awarded on October 5, 1995.

Use of Note 26. Of the 82 contract actions reviewed, 15 required the use of note 26. However, only 2 of the 15 contracts included Note 26 in the CBD. The exclusion of Note 26 in the CBD announcement was addressed by the General Accounting Office (GAO) in its report dated October 1996 and corrective actions are currently being taken. Therefore, we are making no recommendations pertaining to the use of Note 26.

Summary

The DoD buying commands were purchasing commercial products when practicable. The Army, Navy, Air Force, and Defense Logistics Agency buying commands conducted adequate market research to identify commercially available products to satisfy their needs. The management controls were adequate as they applied to the overall audit objective.

²The FAR defines a nondevelopmental item to include any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a state or local government, or a foreign government with which the United States has a mutual defense cooperation agreement.

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Part II - Additional Information

Appendix A. Scope and Methodology

Sample Selection and Audit Locations. We judgmentally selected 11 Army, Navy, Air Force, and Defense Logistics Agency contracting organizations. We reviewed a total of 82 FY 1996 contract actions, each valued at more than \$100,000. We reviewed only those contract actions valued at more than \$100,000 because FASA does not require that market research be conducted for contracts of lesser value.

We reviewed the 82 contract actions to determine:

- o whether market research was performed prior to the solicitation and award of contracts,
- o the type and extent of market research performed, and
- o whether management controls covering the purchase of commercially available products were effective.

Audit Period, Standards, and Locations. This economy and efficiency audit was performed from December 1996 through March 1997 in accordance with the auditing standards issued by the Comptroller General of the United States as implemented by the Inspector General, DoD. Accordingly, we included tests of management controls we considered necessary. We relied on computer-processed data from the DoD Contract Action Reporting System to determine which contracting activities to visit and to determine the contracts to review. Although we did not perform a formal reliability assessment of the computer-processed data, we determined that the contract numbers, award dates, contractors, and Federal supply codes on those contracts reviewed generally agreed with the information in the computer-processed data. We did not find errors that would preclude either use of the computer-processed data to accomplish the audit objectives, or that would invalidate the conclusions made. We visited or contacted individuals and organizations within DoD. Further details are available upon request.

Management Control Program

DoD Directive 5010.38, "Management Control Program," August 26, 1996, requires DoD organizations to implement a comprehensive system of management controls that provides reasonable assurance that programs are operating as intended and requires the organizations to evaluate the adequacy of their controls.

Scope of Review of the Management Control Program. We reviewed the adequacy of management controls relating to market research techniques to ensure that commercially available products were being identified and procured when practicable.

Adequacy of Management Controls. Management controls utilized to identify commercially available products were adequate. We identified no material management control weaknesses.

Prior Audits

Section 8305 of FASA requires the GAO to evaluate the Government's use of market research and to make any recommendations for changes in law or regulations that the Comptroller General considers appropriate. In accordance with FASA, GAO issued report No. GAO/NSIAD-97-3 (OSD Case No. 1215) "Acquisition Reform: The Government's Market Research Efforts," October 11, 1996. The report focused on the Government's existing market research efforts regarding commercial items and nondevelopmental items, and the feasibility of creating a government-wide database for storing, retrieving, and analyzing data. The audit found that the Government's market research efforts appeared to be appropriate, and that agencies were obtaining commercial items when available. The audit found however, that the Government agencies -- including DoD -- were not always including Note 26 in the CBD. DoD agreed with the accuracy of information in the report, but stated there are no intentions to change the market research process or practices that DoD implemented under the provisions of FASA. The GAO stated that since implementation of the Federal Acquisition Regulation was at an early stage, market research changes and the results from such changes were not expected until a year after implementation, and therefore recommendations on FASA changes would be premature.

Appendix B. Report Distribution

Office of the Secretary of Defense

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Director, Defense Logistics Studies Information Exchange
Under Secretary of Defense (Comptroller)
Assistant Secretary of Defense (Public Affairs)

Department of the Army

Auditor General, Department of the Army

Department of the Navy

Assistant Secretary of the Navy (Financial Management and Comptroller)
Auditor General, Department of the Navy

Department of the Air Force

Assistant Secretary of the Air Force (Financial Management and Comptroller)
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Office of Management and Budget
Technical Information Center, National Security and International Affairs Division,
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Senate Committee on Appropriations

Senate Subcommittee on Defense, Committee on Appropriations

Senate Committee on Armed Services

Senate Committee on Governmental Affairs

House Committee on Appropriations

House Subcommittee on National Security, Committee on Appropriations

House Committee on Government Reform and Oversight

House Subcommittee on Government Management, Information and Technology,
Committee on Government Reform and Oversight

House Subcommittee on National Security, International Affairs, and Criminal Justice,
Committee on Government Reform and Oversight

House Committee on National Security

Audit Team Members

This report was prepared by the Contract Management Directorate, Office of the Assistant Inspector General for Auditing, DoD.

Paul J. Granetto
Terry L. McKinney
Bruce A. Burton
Arsenio Sebastian
Billy J. McCain
Marc E. Avers
LaNita C. Matthews
Monica S. Rice
Ana M. Myrie